UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VAN PATRICK MACON; FREDDICK E. MACON, Plaintiffs, -against- PHILADELPHIA MS POLICE DEPARTMENT, et al., Defendants.	24-CV-9170 (LTS) TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiffs, who reside in Neshoba County, Mississippi, bring this action *pro se*. This

action arises out of criminal charges in Mississippi against various members of the Macon

family. For the following reasons, the Court transfers this action, under 28 U.S.C. § 1406, to the

United States District Court for the Southern District of Mississippi.

DISCUSSION

The general venue statute provides that a civil action may be brought in

> (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

For venue purposes, a "natural person" resides in the district where the person is

domiciled, and an "entity with the capacity to sue and be sued" resides in any judicial district

where it is subject to personal jurisdiction with respect to the civil action in question. *See* 28

U.S.C. § 1391(c)(1), (2).

Plaintiffs allege that their son was arrested and thereafter Detective Shae Elliot falsely

arrested them. Attorney Wade White was involved in bringing these "fake charges" against them.

(ECF 1 at 1.). Plaintiffs attach a newspaper article from the *Neshoba Democrat* titled, "Parents

charged with witness tampering." (*Id.* at 2.) Plaintiffs contend that Neshoba County District

Attorney Steven Kilgore attempted to pressure them into pleading guilty to "a made up lie." (*Id.*

at 1.). Plaintiffs sue the Philadelphia Mississippi Police Department, Detective Shae Elliot,

attorney Wade White, Bondsman Sabrina Houston, and others.

Venue is not proper in this Court under Section 1391(b)(1), based on the residence of

defendants, because all defendants are not residents of New York. Plaintiffs allege that the events

giving rise to their claims took place in Philadelphia, Mississippi, which is in Neshoba County.

(ECF 1 at 1-2.) Because Plaintiffs allege that the events giving rise to their claims took place

outside this district, venue is not proper here under Section 1391(b)(2).

If venue is improper in the district where a case was brought, the Court "shall dismiss, or

if it be in the interest of justice, transfer such case to any district or division in which it could

have been brought." 28 U.S.C. § 1406(a). Plaintiffs' claims arose in Neshoba County, which is in

the Southern District of Mississippi. 28 U.S.C. § 104(b)(1). Accordingly, venue is proper under

Section 1391(b)(2) in the Southern District of Mississippi, and in the interest of justice, the Court

transfers this action to the United States District Court for the Southern District of Mississippi,

28 U.S.C. § 1406(a).

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court

for the Southern District of Mississippi, 28 U.S.C. § 1406(a). Whether Plaintiffs should be

permitted to proceed further without prepayment of fees is a determination to be made by the

transferee court. A summons shall not issue from this Court. This order closes the case in the

Southern District of New York.

The Court certifies, pursuant to 28 U.S.C § 1915(a)(3), that any appeal from this order

would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose

of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: December 3, 2024
         New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

3